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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 24895B	
<i>Facsimile Transmitted</i> I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" (37 CFR 1.8(a)) on <u>10/25/06</u> Signature <u><i>Jan Hostasa</i></u> Typed or printed name <u>Jan Hostasa</u>		Application Number 10/066,954 Filed February 4, 2002 First Named Inventor Lewin Art Unit 3728 Examiner Foster	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ attorney or agent of record.
Registration number 38,969
- ☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Margaret S. Millikin
Signature

Margaret S. Millikin
Typed or printed name

740/321-5359
Telephone number

10/24/06
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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OCT 25 2006

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Applicant: Lewin et al.)
)
Confirmation No.: 6057)
)
Serial No.: 10/066,954)
)
Filed: February 4, 2002) Group Art Unit: 3728
)
For: A Method And Apparatus For The Bulk) Examiner: J. Pickett
Collection Of Texturized Strand)

Commissioner For Patents
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

This is a Pre-Appeal Brief Request for Review of the final rejections made in the Office Action mailed on April 19, 2006 and is submitted concurrently with a Notice of Appeal. Upon carefully considering the following comments and the arguments of record (all of which are incorporated herein by reference), it is believed the panel will agree that the Office has acted arbitrarily in making the extant obviousness rejections without the requisite substantial evidence.

Claim 15 of the present application teaches a package of texturized glass strand that includes (1) a container having a removable closure; and (2) a glass strand disposed in said container in a texturized, coiled form, wherein said glass strand can be withdrawn from said container for subsequent use when said closure is removed, wherein said glass strand in said texturized, coiled form has a density of 5 to 10 lbs/ft³. Claims 16-18 depend from claim 15.

In rejecting claims 15-18, the examiner states "Ingemansson clearly discloses a removable closure in the form of a removable cover plate" citing Column 3, line 67 to column 4, line 7. The section cited by the examiner reads:

When the muffler 13 is filled, it is moved to a station (not shown) for welding on the lefthand end piece. Since the wool has a tendency to expand when the suction is stopped, the muffler is moved to the welding station with the suction fan still coupled and in operation or else a cover plate is temporarily placed over the

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opening of the muffler before the hose 17 is disconnected to prevent the wool from coming out during transport.

Applicants respectfully submit that the Office has incorrectly interpreted the cited reference and has therefore failed to establish a proper *prima facie* case of obviousness. As Applicants previously explained to the Office, the inventions of claim 15-18 are not disclosed or taught in the Ingemansson reference. Ingemansson teaches a method of manufacturing a finished muffler. As an intermediate step in the manufacture of the muffler, that is, prior to "welding on the lefthand end piece" the righthand section of the muffler is covered to prevent escape of wool during manufacture. Applicants submit that the statement cited by the Examiner in no way make applicants claimed invention unpatentable. Ingemansson teaches the manufacture of a muffler that is closed in all respects. Further, Ingemansson does not show or suggest that the "glass strand can be withdrawn from said container for subsequent use when said closure is removed." One skilled in the art, upon reading Ingemansson would understand that there is no suggestion of removing the wool for subsequent use when in fact the point of Ingemansson is to "prevent the wool from coming out during transport" from the wool fill station to the welding station on a production line. Accordingly, Ingemansson fails to constitute the substantial evidence necessary to render the claimed invention obvious as a matter of law. *See, e.g., In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1599 (Fed. Cir. 1988) (holding it error to find obviousness where references as a whole "diverge from and teach away from the invention at hand.").

In addition, Applicants submit that there is no motivation for one of skill in the art to arrive at the presently claimed invention based on the disclosure of Ingemansson. As is well established, in order to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. (*See, e.g., In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) and *Manual of Patent Examining Procedure*, Patent Publishing, LLC, Eighth Ed., Rev. 3, August 2005, §2142). Applicants submit that one of ordinary skill in the art simply would not be motivated to form a package of texturized glass from which wool can be removed based upon the teaching of Ingemansson, a process that prevents the escape of

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glasswool from a muffler half prior to permanently sealing the muffler based on the teachings of Ingemansson because Ingemansson is silent as to any teaching or suggestion of removing the glasswool.

As to the rejection of claims 15-17 as being unpatentable in view of Ingemansson and U.S. Patent No. 3,398,877 to Mattis. Applicants submit that this rejection fails for the reasons described above with respect to Ingemansson taken alone.

As to the rejection of claim 18 as being unpatentable over Ingemansson, in view of U.S. Patent No. 3,670,949 to Galanes. Applicants submit that this rejection fails for the reasons described above with respect to Ingemansson taken alone.

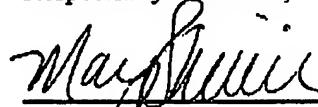
In view of the above, Applicants submit that the present invention is not taught or suggested within Ingemansson, Mattis or Galanes either alone or in any proper combination, and respectfully request that this rejection be reconsidered and withdrawn.

In light of the above, Applicants believe that this application is now in condition for allowance and therefore request favorable consideration.

If any points remain in issue, which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

If any fees are due in connection with the filing of this response, including any fee for a required extension of time under 37 C.F.R. § 1.136(a) for which Applicants hereby petition, please charge all necessary fees to Deposit Account No. 50-0568.

Respectfully submitted,



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Date: 10/24/06

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